



U.S. Department of Justice

United States Attorney  
Southern District of New York

Jacob K. Javits Federal Building  
26 Federal Plaza, 37th Floor  
New York, New York 10007

September 20, 2024

BY ECF

The Honorable Jessica G.L. Clarke  
United States District Judge  
Southern District of New York  
United States Courthouse  
500 Pearl Street  
New York, NY 10007

Re: ***United States v. Joseph Lewis et al.***, S1 23 Cr. 370 (JGLC)

Dear Judge Clarke:

The Government writes regarding restitution in this case, and to request that the Court defer a determination of restitution and impose a briefing schedule for restitution claims.

By way of background, on April 9, 2024, the Court imposed sentence on defendant Joseph Lewis and stated that it would impose restitution, but deferred the determination of the amount of restitution until July 3, 2024. (Dkt. 69). On June 25, 2024, at the sentencing of defendant Patrick O'Connor, the Court deferred the determination of restitution until September 23, 2024. (Dkt. 100). On August 20, 2024, the Court scheduled defendant Bryan Waugh's sentencing for December 10, 2024.

As the Court is aware, Section 3664 provides for a period of 90 days after sentencing for the Court to make a final determination of victim losses. 18 U.S.C. § 3664(d)(5). However, as the Supreme Court has made clear, this provision is a so-called "time-related directive" only, which does not limit the power of the Court to order restitution even after the expiration of this 90-day period. *Dolan v. United States*, 560 U.S. 605, 610-11 (2010); *see also United States v. Avenatti*, 81 F.4th 171, 203-07 (2d Cir. 2023).

In an insider trading case, a victim that had its confidential information misappropriated may, among other things, seek restitution to compensate for legal expenses. *See United States v. Gupta*, 925 F. Supp. 2d 581, 586 (S.D.N.Y. 2013); *United States v. Afriyie*, No. 16-cr-377 (PAE), 2020 WL 634425, at \*1-2 (S.D.N.Y. Feb. 11, 2020); *United States v. Skowron*, 839 F. Supp. 2d 740, 745 (S.D.N.Y. 2012). In this case, the Government is aware of one or more victims that are likely to submit restitution claims. Such restitution liability may apply to all three defendants.

In order to allow victims to submit restitution claims, the Government respectfully requests that the Court order that victims submit restitution claims four weeks before Bryan Waugh's sentencing, that any of the defendants submit their positions with respect to restitution two weeks before sentencing (when defendant Waugh's sentencing submission would be due), and that the Government submits its position on restitution at the time it makes its sentencing submission. The Government notified defense counsel earlier today of its intention to seek this schedule and did not receive any objections.

Respectfully submitted,

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cc: Defense Counsel (by ECF)